

CHAPTER

1

INTRODUCTION

1. Rules or codes of civil procedure

The rules or codes of civil procedure constitute the foundational framework upon which any system of civil justice rests. These rules serve as the procedural backbone of civil litigation, ensuring that legal rights and liabilities are adjudicated in a structured, consistent, and just manner. In India, this procedural law is enshrined in the Code of Civil Procedure, 1908 (CPC), which remains the primary statute regulating the practice and procedure followed by civil courts across the country.

Though the CPC does not confer substantive rights, it plays an indispensable role in the enforcement of such rights. It functions as a machinery for justice, facilitating the smooth operation of the judicial system by laying out comprehensive steps for initiating, conducting, and concluding civil proceedings. Its importance lies in ensuring that disputes are adjudicated fairly, efficiently, and transparently, adhering to the ideals of justice and equality before the law.

The Code is systematically divided into two parts: the body of the Code (sections) and the First Schedule (orders and rules). While the sections lay down general principles applicable to civil proceedings, the orders and rules provide detailed procedural guidance. The CPC meticulously outlines each stage of civil litigation—from the institution of suits, issue and service of summons, submission of written statements and counterclaims, to the framing of issues, collection of evidence, hearing of arguments, pronouncement of judgments, and execution of decrees.

Furthermore, the Code encapsulates and reinforces the principles of natural justice, which are the bedrock of any democratic legal system. These include the right to a fair hearing, notice to the opposing party, impartial adjudication, and the requirement of reasoned orders. By embedding these principles into its procedural framework, the CPC safeguards the rights of litigants and promotes confidence in the judicial system.

In the contemporary legal landscape, where litigation is increasingly complex and time-sensitive, the CPC also provides mechanisms for alternative dispute resolution (ADR), summary procedures, and case management, thereby encouraging expeditious disposal of cases and reduction of backlog.

For legal practitioners, academicians, law students, and judicial officers, a thorough understanding of the Code is not only necessary but critical. It forms the procedural canvas upon which the fabric of substantive law is applied. No matter

how strong a party's substantive claim may be, success in litigation is heavily dependent on adherence to procedural norms. Thus, the CPC is not merely a technical tool but a guardian of due process, ensuring that justice is not only done but seen to be done.

2. Common law pleading

The art of drafting pleadings remains underdeveloped despite the steady rise in civil litigation. In practice, pleading should be considered a foundational skill for every lawyer, deserving greater emphasis in legal education. However, due to the lack of structured training, many young lawyers tend to draft pleadings that are unnecessarily lengthy and unclear. This often leads to the inclusion of irrelevant facts, excessive detail, and a failure to properly arrange the material facts provided by the client. As a result, essential facts become entangled with trivial or immaterial information, causing even strong cases to falter or get prolonged unnecessarily.

Historically, pleadings were oral. In ancient times, justice was administered by the king himself, where the petitioner would directly narrate his grievance before the monarch. The king would then summon the opposing party and hear their defence. While there was no formal written documentation, these oral pleadings conveyed the factual essence of each party's case. With the evolution of the judicial system and the separation of powers, the need for written records emerged due to the increasing complexity and volume of litigation. Scribes initially maintained written accounts of court proceedings, which gradually transformed into formal written pleadings. By the 19th century, the process had become systematic and was eventually codified in the civil procedure codes.

In India, *Order VI Rule 1 of the Code of Civil Procedure, 1908* defines pleadings as either a plaint or a written statement. The plaint is the statement filed by the plaintiff outlining the cause of action and supporting facts, while the written statement is the defendant's formal reply, wherein he may admit, deny, or counter the plaintiff's claims. Mulla defines pleadings as the written statements submitted by parties stating their respective contentions in a case, with sufficient clarity to enable the other side to prepare their case. Thus, pleadings serve as the foundation of civil litigation and must be drafted with utmost care. Any material omission or inconsistency can severely impair a party's ability to lead evidence or raise arguments, as parties are strictly bound by their pleadings during trial. New grounds or facts cannot be introduced later except through amendment, which is permitted under *Order VI Rule 17 of the CPC*.

Pleadings must consist solely of material facts—those facts necessary to formulate a complete cause of action or defence—presented in a clear and chronological order. Legal arguments or evidence should not be included. Precision, clarity, and brevity are key to effective pleading. Errors in drafting can mislead the court, confuse the issues, and even result in the dismissal of otherwise meritorious claims. In civil procedure, a defendant may also include a claim for set-off under *Order VIII Rule 6*, where the defendant asserts a legally recoverable debt from the plaintiff. Further, a defendant may raise an independent counter-claim, which, although not strictly a set-off, is treated procedurally as a plaint and decided alongside the suit.

Therefore, pleadings in the common law system form the bedrock of judicial proceedings. They determine the scope of the case and inform both the court and the parties of the factual issues in dispute. Effective pleading requires not just technical skill but also a sound understanding of substantive law. A well-drafted pleading can significantly influence the course of a trial, while a poorly drafted one can cause unnecessary delays or even jeopardize the outcome of the case.

3. Pleadings - Object of

The object of pleadings is fundamental to the administration of civil justice, as it ensures that every party to a legal dispute is given fair and adequate notice of the other party's case. Pleadings serve as the formal written statements of claims and defences submitted by the parties, which are designed to define and narrow down the real issues in controversy. Their primary purpose is to clearly set out the matters that are in dispute so that each side knows the specific facts and contentions being advanced by the other, allowing them to prepare an effective response. This promotes procedural fairness and aligns with the principles of natural justice.

By specifying which facts are admitted, which are denied, and which are in dispute, pleadings play a crucial role in avoiding ambiguity and surprise during trial. They help to prevent parties from being blindsided by new allegations or defences raised without warning. Instead, the litigation process is streamlined and more efficient, as the trial is confined to the actual points of contention. This enables the court to focus its attention on resolving the key legal and factual disputes, rather than sifting through irrelevant or undisputed matters.

Another important function of pleadings is to reduce unnecessary delays, duplication of effort, and litigation costs. When a party admits certain facts in their pleading, the other party is relieved from the obligation to prove those facts through evidence. This not only saves time but also allows both parties to focus their resources and arguments on the genuine areas of disagreement. As a result, the trial becomes more organized, economical, and less burdensome on both the parties and the court.

Pleadings also serve the critical purpose of compelling both parties to disclose their entire case before the commencement of the trial. Each party is expected to lay out all relevant claims, facts, defences, and legal contentions at the outset. This early disclosure fosters transparency and predictability, and it allows the opposing party to prepare a proper rebuttal or defence. It helps to ensure that there are no surprises or ambushes during the trial in the form of new or undisclosed claims. This practice promotes an equitable hearing and safeguards the integrity of the judicial process.

Furthermore, pleadings assist the court in framing the issues for adjudication. Once the court is aware of what is admitted, denied, or in dispute, it can properly structure the trial, manage the evidence accordingly, and deliver a focused and reasoned judgment. In appellate proceedings as well, pleadings form the foundation of the case record and are often relied upon to understand the scope and nature of the original dispute.

In conclusion, the rules of pleadings are not merely technical requirements but are essential tools for ensuring justice. They contribute significantly to the

orderly conduct of litigation by giving structure to the case, ensuring fairness to all parties, minimizing unnecessary litigation, and enhancing the overall efficiency and transparency of the judicial process.

4. Object and purpose of pleadings - Evidence produced when cannot be considered—Construction of the pleadings

In civil litigation, it is a well-established and fundamental principle that no evidence can be admitted or considered by a court on a fact that has not been specifically pleaded by the parties. Pleadings form the foundation and framework of any civil case, and it is upon these pleadings that the issues for trial are framed. The entire process of adjudication is structured around the disputes as defined in the plaint and the written statement. The purpose of requiring proper pleadings is to clearly set out the claims and defences of each party, thereby enabling the opposing party to be fully aware of the case it must answer and to prepare its response accordingly.

This rule is based on the principles of fairness and procedural justice. If a party is allowed to lead evidence on a matter which does not find mention in the pleadings, it would amount to taking the other party by surprise. The opposing party would not have had the opportunity to contest or rebut such an unpleaded claim, which would ultimately result in a denial of fair trial and breach the principles of natural justice. Hence, courts insist that evidence must be confined strictly to the issues arising from the pleadings of the parties.

Even if unpleaded facts are sought to be established through evidence during trial, such evidence is not admissible or legally relevant unless the pleadings are first amended in accordance with the procedure laid down under Order VI Rule 17 of the Code of Civil Procedure, 1908. This provision permits a party to amend its pleadings at any stage of the proceedings, subject to the court's discretion and satisfaction that such amendment is necessary for determining the real questions in controversy. However, until and unless the pleadings are formally amended, no evidence can be relied upon with respect to those unpleaded facts.

The Supreme Court has consistently reaffirmed this principle. In the landmark case of *Union of India v. Ibrahim Uddin*, (2012) 8 SCC 148, the Court categorically held that no amount of evidence can be looked into on a plea or issue which is not raised in the pleadings. The Court further emphasized that the purpose of pleadings is not merely procedural, but foundational to a fair trial. If courts were to permit evidence on unpleaded matters, it would render the entire framework of pleadings redundant and defeat the orderly conduct of trial proceedings.

Permitting such evidence without amendment also undermines the very object of framing issues, which is to narrow down and define the scope of the trial. If parties are allowed to travel beyond their pleadings, the framed issues lose their meaning, and the adjudication becomes arbitrary and prejudicial. It also increases the risk of decisions being rendered on matters that were never in controversy, and hence never properly tested in trial.

In conclusion, the rule that courts cannot look into evidence on facts not pleaded is not a mere technicality, but a vital safeguard in the administration of civil justice. It ensures that both parties are given a fair opportunity to present

their case, prepares the ground for a just and focused adjudication, and preserves the integrity of the trial process. Any deviation from this principle without due amendment of pleadings would strike at the root of natural justice and procedural fairness.

5. Pleadings - Construction

Pleadings must be read as a whole and interpreted in a fair, liberal, and reasonable manner, rather than subjected to a narrow, rigid, or overly technical construction. The objective of examining pleadings is not to find faults in form or language, but to understand the real substance, intent, and nature of the case presented by the party. Courts are guided by the principle that the true meaning of a pleading should be discerned by reading it in its entirety, in context, and in a manner that serves the ends of justice.

It is neither expected nor required that pleadings be drafted with legal perfection or linguistic precision, especially in cases where they are prepared by laypersons or in forums where the degree of formalism is reduced. However, what is imperative is that all material facts, which form the foundation of the cause of action or defence, are clearly and specifically stated. These material facts are the essential facts that a party must prove to succeed. Mere general allegations or vague assertions do not suffice.

The emphasis is on substance rather than form. If the necessary facts are conveyed, even if not with technical accuracy, the court ought to adopt a constructive approach in interpreting the pleading. This liberal reading of pleadings ensures that substantive justice is not sacrificed at the altar of procedural technicalities. Courts are expected to further the cause of justice and avoid defeating legitimate claims or defences merely because of minor or technical defects in the pleadings.

In the landmark judgment **Ram Sarup Gupta v. Bishun Narain Inter College**, (1987) 2 SCC 555, the Supreme Court emphasized that pleadings should not be read in isolation or in a pedantic or hypercritical manner. Rather, the pleading should be construed holistically to ascertain the true character and scope of the party's case. The Court stated that while deficiencies in pleadings cannot be completely ignored, a just and fair interpretation requires attention to the substance of the pleading rather than the form in which it is presented.

This principle also has a bearing on the admissibility of evidence and the framing of issues. A party is bound by its pleadings and cannot go beyond them during trial. However, the pleadings must be understood broadly so as to accommodate the real controversy between the parties. If a fact, though not elaborately stated, is reasonably indicated in the pleading, and both parties have understood and responded to it, the court may permit evidence on that aspect.

Thus, while clarity and completeness in pleadings are essential for an orderly and fair trial, the judicial approach to construing pleadings must be pragmatic, equitable, and oriented towards achieving substantial justice. Rigid formalism should not obstruct genuine claims, and pleadings should be seen as a means to facilitate fair adjudication, not as a procedural trap for the unwary.

6. Pleadings of parties form the foundation of their case

Pleadings are the bedrock of any civil litigation. They form the foundation upon which the entire case of each party is built. A plaint or a written statement must contain all the material facts that a party relies upon to claim relief or to defend against a claim. These documents clearly define the boundaries of the dispute and ensure that the opposing party is made aware of the case they have to meet. Without proper pleadings, there can be no clear identification of issues, and the adjudication process becomes arbitrary and unfair.

The object of pleadings is not just to inform the court but also to ensure that both sides know the case they are required to meet. This enables each party to prepare their evidence and arguments accordingly. Once the pleadings are filed and issues are framed, the trial proceeds strictly within the scope of the facts pleaded. No party can go beyond the case set out in their pleadings unless permitted by way of amendment.

The Supreme Court of India has repeatedly emphasised this point. In *Sri Gangai Vinayagar Temple v. Meenakshi Ammal*, (2015) 3 SCC 624, the Court held that pleadings give fair notice to the opposite party and determine the scope of the trial.

Therefore, pleadings are not mere formalities but essential components of a fair trial. A case must stand or fall on the strength of the pleadings. If the foundational facts are absent, the entire structure of the case collapses. This is why both parties must be diligent in ensuring that their pleadings are complete, clear, and strictly confined to material facts relevant to the dispute.

6A. Pleadings–Scope

The scope of pleadings in civil litigation is both broad and structured. Pleadings serve as the foundation of a party's case and define the limits within which the trial will proceed. They include the plaint and written statement, as defined under Order VI Rule 1 of the Civil Procedure Code, and must contain a concise statement of material facts on which the party relies, but not the evidence by which those facts are to be proved.

The scope of pleadings is to clearly inform both the court and the opposing party about the factual basis of the claim or defence, enabling proper framing of issues and fair adjudication. Pleadings help to avoid surprises at trial and ensure that each party knows the case it must meet. They also help to narrow down the controversy between the parties and focus the trial only on disputed facts.

Courts generally do not permit a party to go beyond its pleadings. No new ground or inconsistent allegation can be introduced except by way of amendment under Order VI Rule 17, CPC. However, courts have some flexibility to interpret pleadings liberally, provided the essential facts are present and the opposite party is not prejudiced.

The Supreme Court in the case of *Virendra Kashinath Ravat v. Vinayak N. Joshi*, (1999) 1 SCC 47, held that pleadings should be construed reasonably, not with a hyper-technical approach. Similarly, in *Ganesh Trading Co. v. Moji Ram*, (1978) 2 SCC 91, the Court emphasized that pleadings are not to be strictly

construed like statutes, but should be understood in the context of justice and fair trial.

Thus, the scope of pleadings encompasses all material facts necessary to support a claim or defence, provides clarity on the matters in dispute, and ensures that trials are conducted efficiently and fairly. However, this scope is limited by procedural rules that prevent parties from taking shifting or inconsistent stands during the course of the litigation.

7. Failure to plead material facts

Failure to plead material facts strikes at the very root of a party's case. In civil proceedings, pleadings are required to contain all *material facts*—the essential facts which, if established, would entitle the plaintiff to the relief sought or would support the defence of the defendant. These are not to be confused with evidence or legal arguments; rather, they are the building blocks of the case itself.

If a party fails to plead such facts, the court cannot grant relief on the basis of unpleaded grounds, even if supporting evidence is available. Courts are bound to decide a case within the framework of the pleadings. Without a proper factual foundation, no issue can be framed and no evidence can be led or considered on that point. Consequently, the entire claim or defence may be rendered unsustainable.

The Supreme Court in *Popat and Kotecha Property v. State Bank of India Staff Association*, (2005) 7 SCC 510, clearly held that “*material facts must be pleaded. If not pleaded, evidence in support of the same cannot be looked into. No amount of evidence can cure the defect in pleadings.*” Similarly, in *Udhav Singh v. Madhav Rao Scindia*, (1976) 2 SCC 95, the Court stated that absence of material facts renders the pleading defective and liable to be struck out.

Hence, failure to plead material facts can lead to serious consequences, including dismissal of the suit or defence, refusal of relief, or inability to amend pleadings at a later stage if it causes prejudice to the other side. This principle upholds the fairness of the trial by ensuring that both parties know, from the outset, the factual case they must meet.

8. Difference between material facts and better particulars

In civil litigation, the distinction between material facts and better particulars is crucial, as both play different roles in pleadings.

Material facts are the essential facts that form the foundation of a cause of action or defence. These are the facts that a party must plead in order to establish a valid legal claim or defence. Without material facts, a pleading is considered incomplete and defective. They are the core elements that, if proven, entitle the plaintiff to the relief sought or support the defendant's case. For example, in a suit for breach of contract, material facts would include the existence of a contract, its terms, the breach by the defendant, and the resulting damage.

Better particulars, on the other hand, are the detailed facts that support or clarify the already pleaded material facts. They are not essential to form the cause of action but are necessary to give the other party precise information about the case they have to meet. Particulars provide the how, when, and where of the material facts. For instance, if a plaintiff states that the defendant breached a contract, better

particulars would include the exact date of breach, the manner in which the breach occurred, and the specific communication related to the breach.

While material facts must be included in the initial pleadings under Order VI Rule 2 of the Civil Procedure Code (CPC), better particulars may be sought by the opposing party through an application under Order VI Rule 5 of CPC if the pleading lacks sufficient clarity.

In the case of *Udhav Singh v. Madhav Rao Scindia*, (1976) 2 SCC 95, the Supreme Court clarified that particulars are different from material facts. Particulars are meant to amplify and clarify the material facts but cannot substitute them. Similarly, in *Virendra Kashinath Ravat v. Vinayak N. Joshi*, (1999) 1 SCC 47, the Court observed that material facts are those facts which must be pleaded to disclose a complete cause of action.

In summary, material facts are the necessary foundation of a pleading, while better particulars are the clarifying details that help to avoid ambiguity and surprise at trial.

9. Plea not specifically made but covered by an issue

In civil litigation, there may be situations where a party has not expressly raised a specific plea in the pleadings, yet that plea is considered during the trial because it is covered by an issue framed by the court. Courts have held that in such cases, if the parties have understood the issue, led evidence on it, and it has been argued without objection, then the absence of a specific plea in the pleadings may not be fatal.

The rationale is that the purpose of pleadings is to give fair notice of the case to the other side. If a plea, though not specifically made, is nevertheless understood by both parties, and they contest it knowingly, then the court can decide the matter based on the issue and evidence.

In *Nawab Singh v. Inderjit Kaur*, (1994) 1 SCC 345, the Supreme Court held that where an issue is framed, evidence is led, and the parties contest the point, the court may decide it even if there is no specific pleading. Similarly, in *Bhagwati Prasad v. Chandramaul*, AIR 1966 (SC) 735, the Court observed that “if the parties knew that a particular question was at issue and they led evidence on it, then the absence of a specific plea is not necessarily fatal.”

However, this rule is applied cautiously. If the other party is prejudiced due to lack of notice or is taken by surprise, the court will not permit such a plea to be considered. The test is whether the parties went to trial knowing that the matter was in issue.

Therefore, while pleadings are essential, and normally a court should not decide a case on unpleaded grounds, if a plea is clearly covered by the issues, evidence, and arguments, and no prejudice is caused, the court can take cognizance of it.

10. Subsequent events when pleaded

In civil litigation, subsequent events refer to facts or circumstances that occur after the filing of the plaint or written statement but which may significantly affect the rights of the parties or the relief claimed. Although courts generally decide a case based on the facts as they existed on the date of the institution of the suit, they

may consider subsequent events when such events are relevant, properly pleaded, and brought on record with the court's permission.

When a subsequent event materially alters the circumstances of the case, ignoring it may lead to injustice or render the relief ineffective or futile. Courts therefore have the discretion to take such events into account to do complete and effective justice. However, this is allowed only if the subsequent facts are specifically pleaded by way of amendment or by filing additional pleadings, so that the opposite party is not taken by surprise and is given an opportunity to respond.

In the case of *Pasupuleti Venkateswarlu v. Motor & General Traders*, (1975) 1 SCC 770, the Supreme Court observed that courts are not to act in a vacuum and may take note of subsequent events if they are relevant and materially affect the relief. Similarly, in *Ramesh Kumar v. Kesho Ram*, (1992) 1 SCC 623, the Court held that courts may mould relief according to the changed circumstances of the case.

Thus, when pleaded in accordance with law, subsequent events can be taken into consideration to ensure that justice is not defeated by rigid adherence to the facts initially pleaded. The guiding principle is that such consideration must not cause prejudice to the other party and must be relevant to the relief sought.

11. Relief to be founded on pleadings of the parties exception to rule - Applicability of

In civil litigation, it is a well-settled principle that relief can only be granted based on the pleadings of the parties. This means that the court is bound to decide a case within the framework of facts and issues that the parties have specifically stated in their plaints and written statements. This rule ensures that neither party is taken by surprise and both have an opportunity to meet the case against them. It stems from the principle of fairness, natural justice, and orderly administration of justice.

However, there are exceptions to this general rule, where courts have granted relief even when specific pleadings were absent, provided that both parties had understood the real issues in controversy, evidence had been led by both sides on such issues, and no prejudice was caused to the opposite party by the absence of a formal pleading. This exception is rooted in the principle of substance over form, where the court prioritizes actual justice over procedural technicalities.

The exception is not automatic and applies only when the following conditions are fulfilled: the party against whom relief is granted must have been fully aware of the case being made; such a party must have had the opportunity to lead evidence and contest the issue; and there must be no element of surprise or unfairness caused due to the lack of specific pleadings.

In *Bharat Singh v. State of Haryana*, AIR 1988 (SC) 2181, the Supreme Court held that even in the absence of pleadings, issues which both parties understood and contested during trial could be considered for granting relief. Similarly, in *Siddhant Jha v. M/s Alok Kumar*, (2023) 3 SCC 93, the Court reiterated that pleadings are not to be read pedantically, and courts must consider the substance of the case if both parties have led evidence on the concerned issue.

Thus, while pleadings lay the foundation of the case, courts may, in appropriate cases, depart from strict adherence when doing so promotes substantial justice without causing prejudice.

12. In absence of pleadings evidence if any produced by parties cannot be considered

In civil proceedings, pleadings serve as the foundation of a party's case and define the scope of the trial. It is a settled rule that in the absence of specific pleadings, any evidence produced by the parties cannot be taken into account by the court. This principle ensures clarity, procedural fairness, and prevents a party from being taken by surprise. Pleadings provide notice of the facts and claims a party relies on, thereby enabling the opposing side to respond appropriately and prepare their case. If evidence is led on matters that have not been pleaded, it falls outside the boundaries of the case as framed and must be disregarded by the court. Courts have consistently held that findings cannot be based on stray statements or facts not forming part of the pleadings.

The Supreme Court in case after case has emphasised that pleadings are not mere formalities but essential elements that guide the conduct of a fair trial. In *Bachhaj Nahar v. Nilima Mandal*, (2008) 17 SCC 491, the Court held that no amount of evidence can be looked into on a fact that is not pleaded. The rationale is that evidence without pleadings amounts to trial by ambush, which is impermissible in civil law.

Thus, the absence of pleadings renders any corresponding evidence irrelevant and inadmissible for the purpose of adjudication. Courts must decide cases strictly within the framework of the pleadings, and any deviation can vitiate the fairness of the judicial process.

13. Law does not permit a person to both approbate and reprobate

The legal maxim that a person cannot both approbate and reprobate is a principle of consistency and good faith in judicial proceedings. It means that a party cannot accept and reject the same instrument or transaction simultaneously. In other words, one cannot take advantage of a particular position or benefit under a document, law, or situation and later turn around to challenge its validity or deny its applicability when it no longer suits their interest.

This doctrine is closely associated with the principles of estoppel and fairness. If a person has accepted a benefit arising from a contract or a legal proceeding, they are precluded from denying the validity of that contract or proceeding in the same context. The law, therefore, expects parties to maintain a consistent stand and not to mislead the court or the opposing party by changing their position to suit their convenience.

Courts have often applied this principle to prevent abuse of the process of law. In *Rajasthan State Industrial Development and Investment Corporation v. Diamond and Gem Development Corporation Ltd.*, (2013) 5 SCC 470, the Supreme Court observed that a party cannot be permitted to blow hot and cold, or to approbate and reprobate, by taking inconsistent stands in different stages of the same proceedings.

Thus, the doctrine seeks to uphold the integrity of the legal process by disallowing contradictory conduct and ensuring that parties act with honesty and fairness throughout the course of litigation.

14. Fraud, undue influence and coercion - Mode of Pleading

When a party alleges fraud, undue influence, or coercion in civil proceedings, the law requires such allegations to be pleaded with **specificity and precision**. These are serious charges that, if proved, can invalidate contracts, wills, or other legal instruments. Therefore, the mode of pleading these allegations is governed by strict rules to ensure fairness and to prevent misuse.

Mere general or vague allegations are not sufficient. The party must clearly set out the **particular facts** constituting the fraud, the **circumstances under which undue influence or coercion** was exercised, the **relationship between the parties**, the **manner in which consent was obtained**, and the **resulting unfair advantage** or injury. The pleadings should disclose how the alleged misconduct directly affected the party's decision-making or actions. It is not enough to state that fraud or coercion was used; the pleadings must show **who committed it, how, when, and with what effect**.

Under Order VI Rule 4 of the Code of Civil Procedure, 1908, when fraud, misrepresentation, undue influence, or coercion is alleged, the circumstances constituting such acts must be specifically stated. Courts have repeatedly held that bald assertions or sweeping statements do not satisfy the legal requirement of proper pleading. In *A.C. Ananthaswamy v. Boraiah*, AIR 2004 (SC) 5111, the Supreme Court held that vague pleadings regarding undue influence are not maintainable unless detailed particulars are provided.

Thus, to be legally valid, pleadings involving fraud, undue influence, or coercion must be detailed, specific, and supported by concrete facts, enabling the opposing party to understand and respond to the allegations appropriately.

A sample draft of pleadings where a plaintiff alleges fraud, undue influence, and coercion in a civil suit, structured as part of a plaint.

SAMPLE DRAFT

IN THE COURT OF THE CIVIL JUDGE, [City Name]

Civil Suit No. ___ of 20_ _

[Name of Plaintiff]

...Plaintiff

Versus

[Name of Defendant]

...Defendant

The Plaintiff respectfully submits as follows:

1. That the Plaintiff is a resident of ----- and the Defendant is a resident of----- . The parties are known to each other and have shared a fiduciary relationship for several years.

2. That on or about [Date], the Defendant approached the Plaintiff and induced the Plaintiff to sign a sale deed in respect of the Plaintiff's immovable property situated at -----, claiming it to be a document required for a loan transaction. The Plaintiff was not informed that the said document was, in fact, a sale deed.
3. That the Plaintiff was at the time under physical and mental distress, having recently suffered a medical emergency and was heavily dependent on the Defendant for assistance and support.
4. That taking advantage of the Plaintiff's weakened condition, the Defendant exercised undue influence over the Plaintiff and secured the Plaintiff's signature on the said document. The Plaintiff was made to believe that the document was necessary for the benefit of the Plaintiff and was under no free will while executing it.
5. That the Defendant, by fraudulently misrepresenting the nature of the document, obtained the Plaintiff's signature on the sale deed without any consideration. The Defendant suppressed the true nature of the transaction and misled the Plaintiff.
6. That further, the Plaintiff was coerced and threatened with adverse consequences by the Defendant's associates if the Plaintiff refused to sign the document. The Plaintiff signed the same under duress and coercion, without understanding the contents.
7. That the said sale deed is therefore vitiated by fraud, undue influence, and coercion, and is liable to be declared void and inoperative in law.
8. That the Plaintiff came to know of the true nature of the document only on [Date], when a copy of the registered deed was obtained from the office of the Sub-Registrar.
9. That the cause of action arose on [Date], when the Plaintiff was made to execute the document under false pretenses, and again on [Date], when the Plaintiff discovered the fraud.
10. That the value of the property is Rs. ----- and the court fee has been affixed accordingly.

PRAYER

In view of the above, the Plaintiff respectfully prays that this Hon'ble Court may be pleased to:

- (a) Declare the sale deed dated ----- as null and void, having been obtained by fraud, undue influence, and coercion;
- (b) Grant a permanent injunction restraining the Defendant from transferring, alienating, or creating any third-party interest in the suit property;
- (c) Award costs of the suit; and
- (d) Pass such other and further orders as may be just and proper in the facts and circumstances of the case.

Place: -----

Date: -----

Plaintiff
[Name & Signature]
Advocate for the Plaintiff

AFFIDAVIT

I, [Name of Plaintiff], son/daughter of [Father's/Mother's Name], aged about ____ years, resident of [Full Address], do hereby solemnly affirm and state as under:

1. That I am the Plaintiff in the above-mentioned suit and am fully conversant with the facts and circumstances of the case.
2. That the contents of the accompanying plaint from Paragraph 1 to Paragraph 10 are true and correct to the best of my knowledge and belief, and nothing material has been concealed therefrom.
3. That the cause of action has arisen within the jurisdiction of this Hon'ble Court.
4. That I have filed this affidavit in support of the said plaint.

Verified at [Place] on this ___ day of [Month, Year] that the contents of the above affidavit are true and correct to my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Deponent
(Signature of Plaintiff)
Identified and verified by:
(Signature of Advocate)
[Name of Advocate]

VERIFICATION

I, [Name of Plaintiff], the above-named Plaintiff, do hereby verify that the contents of the plaint from Paragraph 1 to Paragraph 10 are true and correct to my knowledge and belief. The legal submissions in the plaint are based on legal advice, which I believe to be true.

Verified at [Place] on this ___ day of [Month, Year].

Plaintiff
(Signature of Plaintiff)

15. Pleadings, filing of Replications/ Rejoinders

Pleadings are the formal statements of the claims and defences by the parties in a civil suit. The basic pleadings consist of the **plaint**, filed by the plaintiff, and the **written statement**, filed by the defendant in response. These documents set out the material facts on which each party relies, forming the foundation of the case and helping the court to identify the issues for adjudication.

After the defendant files the written statement, the plaintiff may, with the permission of the court or where necessary, file a **replication**—a response to the written statement. A replication is not mandatory in every case but is permitted when the plaintiff needs to rebut new facts or defences raised in the written statement. It helps to clarify the plaintiff's position and narrows down the controversy. A **rejoinder**, though not commonly used in Indian civil practice, refers to any further reply that may be filed by the defendant in response to the replication, again with the court's permission.

The purpose of replication is not to repeat what is already stated in the plaint but to specifically address any new facts or legal contentions raised in the written statement. Courts generally discourage lengthy rejoinders or multiple rounds of pleadings unless they are necessary for the fair disposal of the suit.

In *M. Veerappa v. Evelyn Sequeira*, AIR 1988 (SC) 506, the Supreme Court held that replication should only be allowed in exceptional cases where the plaintiff raises specific grounds to counter new allegations in the written statement. Unnecessary replications may be struck off to avoid delay and confusion.

Thus, while pleadings primarily include the plaint and written statement, replication and rejoinders may be permitted to serve the interest of justice, provided they are concise, relevant, and serve a legitimate purpose in the resolution of the dispute.

SAMPLE DRAFT OF REPLICATION

IN THE COURT OF THE CIVIL JUDGE,[City]

Suit No.: [XXX]

IN THE MATTER OF

[Name of Plaintiff]

...Plaintiff

Versus

[Name of Defendant]

...Defendant

REPLICATION ON BEHALF OF THE PLAINTIFF TO THE WRITTEN STATEMENT FILED BY THE DEFENDANT

MOST RESPECTFULLY SHOWETH:

1. That the Plaintiff has filed the present suit for [mention relief – e.g., possession, recovery, injunction, etc.].
2. That the Defendant has filed the written statement which contains incorrect, false, and misleading averments.
3. That the Plaintiff denies all the allegations, contentions, and submissions made by the Defendant in the written statement except those that are specifically admitted hereinafter.
4. That paragraph-wise reply to the written statement is as under:
 Para 1: Contents of para 1 of the written statement are wrong and denied. The correct position is as stated in the plaint.

Para 2: The contents of para 2 are partly correct to the extent that[admitted portion]; rest is denied as false and baseless.

Para 3: Denied in totality. The Defendant has not provided any evidence to support the claims made in this paragraph.

Para 4: The contents of para 4 are denied. The allegations are vague and not supported by any record.

(Continue giving para-wise reply as necessary)

5. That nothing in the written statement has been stated which can demolish the case of the Plaintiff.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Accept the present replication.
- (b) Pass such other order(s) as may be deemed just and proper in the facts and circumstances of the case.

Place: [City]

Date: [DD/MM/YYYY]

Filed by:

(Signature)

[Name of Advocate for Plaintiff]

AFFIDAVIT

I, [Full Name of Plaintiff], son/daughter of [Parent's Name], aged about [age] years, resident of [full address], do hereby solemnly affirm and state as under:

That I am the Plaintiff in the above-mentioned suit and well acquainted with the facts and circumstances of the case.

That the contents of the accompanying replication, from paragraphs 1 to __, are true and correct to my knowledge and belief.

That no part of it is false and nothing material has been concealed.

VERIFICATION

Verified at [Place] on this [Date] that the contents of this affidavit are true and correct to my knowledge and belief. Nothing material has been concealed.

(Signature of Plaintiff)

[Name]

SAMPLE DRAFT OF REJOINDER

IN THE HON'BLE COURT [Name of Court] AT [Place]

Suit No.: [XXX]

[Name of Petitioner/Applicant]

...Petitioner

Versus

[Name of Respondent]

...Respondent

Petition/Application No.: [XXXX]

REJOINDER AFFIDAVIT ON BEHALF OF THE PETITIONER/APPLICANT

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner has filed the present petition under [mention provision, e.g., Article 226 of the Constitution / Section 9 of the CPC / Section 482, CrPC [section 528 of BNSS, 2023], etc.].
2. That the Respondent has filed a reply/counter-affidavit which is not tenable either in law or on facts and is based on incorrect, misleading, and baseless assertions.
3. That the Petitioner denies all the allegations, contentions, and submissions made in the reply of the Respondent except those that are specifically admitted herein.
4. That the paragraph-wise reply to the Respondent's reply/counter-affidavit is as follows:

Para 1: The contents of para 1 are denied. The correct facts are that[state correct version of facts].

Para 2: The contents are denied as being incorrect and misleading.

Para 3: The averments made in para 3 are denied. The allegations are vague and unsubstantiated.

Para 4: The contents are specifically denied. No such act was ever done by the Petitioner.

(Continue as required for each paragraph)
5. That the contentions raised by the Respondent are baseless, irrelevant, and intended to mislead this Hon'ble Court.

PRAYER

In view of the foregoing, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- (a) Take the present rejoinder on record.
- (b) Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AFFIDAVIT

I, [Full Name of Petitioner], son/daughter of [Parent's Name], aged about [age] years, resident of [full address], do hereby solemnly affirm and state as under:

That I am the Petitioner in the above-mentioned matter and well conversant with the facts and circumstances.

That the accompanying rejoinder affidavit has been drafted under my instructions.

That the contents of the same from paragraph 1 to __ are true and correct to my knowledge and belief.

(Signature of Petitioner)

[Name]

VERIFICATION

Verified at [Place] on this [Date] that the contents of this affidavit are true and correct to my knowledge and belief. Nothing material has been concealed.

(Signature of Petitioner)

[Name]

16. To avoid multiplicity of suits - Reasonable grounds or amendment of plaint

One of the fundamental objectives of civil procedure is to prevent **multiplicity of suits** and ensure that all matters in controversy between the parties are resolved comprehensively in a single proceeding. This principle serves judicial economy, avoids conflicting decisions, and reduces the burden on courts. To achieve this, courts often allow the **amendment of the plaint** where reasonable grounds exist, so that all connected claims can be decided together.

Under **Order VI Rule 17 of the Code of Civil Procedure, 1908**, a party may be permitted to amend the pleadings at any stage of the proceedings, provided the amendment is necessary for determining the real questions in controversy. If a plaintiff seeks to introduce additional claims, facts, or reliefs which arise from the same transaction or series of transactions, courts are inclined to allow such amendments to avoid the need for filing a fresh suit on the same cause of action.

The Supreme Court in *Rajkumar Gurawara v. S.K. Sarwagi & Co. Pvt. Ltd.*, (2008) 14 SCC 364, held that amendments should be allowed if they help in effectively determining the matter in dispute and avoid multiplicity of proceedings. However, such amendments must be made in good faith and should not cause prejudice to the opposite party or change the nature of the suit.

Thus, when reasonable grounds are shown and the amendment is aimed at avoiding multiple litigations between the same parties on related issues, courts may permit amendment of the plaint. This reflects the broader aim of civil procedure—to facilitate complete and final adjudication of disputes in a just, fair, and efficient manner.

17. Amendment of Complaint - General Rule

The general rule regarding the amendment of a complaint is governed by Order 6 Rule 17 of the Code of Civil Procedure, 1908 (CPC). It allows either party to amend their pleadings at any stage of the proceedings, with the leave of the court, provided such amendment is necessary for determining the real questions in controversy between the parties.

Essentials of the general rule:

- Discretion of the court: The court has wide discretion to allow an amendment if it serves the ends of justice and helps to resolve the actual dispute.
- No amendment after trial begins: As per the proviso to Order 6 Rule 17, no amendment is allowed after the commencement of trial unless the court is satisfied that despite due diligence, the party could not have raised the matter before the trial began.
- No new cause of action: An amendment that introduces a completely new or inconsistent cause of action or changes the nature of the suit may be disallowed.
- *Bona fide* intent: Amendments should not be permitted if they are sought with *mala fide* intent or to delay proceedings.

Key case laws:

1. ***Rajkumar Gurawara v. S.K. Sarwagi & Co. Pvt. Ltd. (2008) 14 SCC 364***
 - The Supreme Court held that the dominant purpose of allowing an amendment is to minimize litigation and not to allow parties to alter the nature of the suit.
2. ***Revajeetu Builders & Developers v. Narayanaswamy & Sons (2009) 10 SCC 84***
 - The Court laid down factors to be considered: whether the amendment is necessary, whether it introduces a new cause, whether it prejudices the other side, and whether it is *bona fide*.
3. ***Usha Devi v. Rijwan Ahamd (2008) 3 SCC 717***
 - The Court reiterated that liberal principles should govern the amendment of pleadings to promote the ends of justice.

The general rule is to allow amendments to ensure that the real issues are adjudicated upon, but the court must balance this with the need to avoid prejudice to the other party and ensure procedural fairness.

SAMPLE DRAFT OF AN APPLICATION FOR AMENDMENT OF COMPLAINT

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION),[PLACE]

Civil Suit No.[XXX] of [Year]

[Name of Plaintiff] ...Plaintiff

Versus

[Name of Defendant] ...Defendant

**Application under Order 6 Rule 17 read with Section 151 of
the Code of Civil Procedure, 1908**

The humble application of the plaintiff most respectfully sheweth:

1. That the plaintiff has filed the present suit for [mention the nature of the suit, e.g., recovery of money, specific performance, declaration, etc.], and the same is pending before this Hon'ble Court.
2. That during the preparation of the matter, the plaintiff has noticed that due to inadvertence and oversight, certain material facts and particulars were not included in the original plaint.
3. That the plaintiff now seeks to amend the plaint to include the following:
 - (a) Insertion of paragraph [x] stating that [briefly describe proposed amendment]
 - (b) Amendment of the prayer clause to include [mention any new/additional reliefs]
4. That the proposed amendment is necessary for determining the real questions in controversy between the parties and for proper adjudication of the case.
5. That the amendment does not change the nature and character of the suit and is being made before the commencement of the trial.
6. That the application is made *bona fide* and without any intention to delay the proceedings or cause prejudice to the defendant. No prejudice will be caused to the other side if the amendment is allowed.
7. That this Hon'ble Court has the power to allow such an amendment under Order 6 Rule 17, CPC, and the ends of justice require that the amendment be permitted.

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- (a) Allow the present application and permit the plaintiff to amend the plaint in terms of paragraph 3 above.
- (b) Pass such other and further orders as may be deemed just and proper in the interest of justice.

Place: [Place]

Date: [Date]

[Signature of Plaintiff]

Through Counsel

[Name of Advocate]

Advocate for the Plaintiff

AFFIDAVIT

I,[Name], son/daughter of [Father's Name], aged about [Age] years, residing at[Full Address], do hereby solemnly affirm and state as under:

1. That I am the plaintiff in the above suit and am well acquainted with the facts of the case.
2. That I have read and understood the contents of the accompanying application for amendment of the plaint, and the same are true and correct to my knowledge and belief.
3. That the amendment sought is essential for determining the real questions in controversy and is necessary in the interest of justice.
4. That the application is made *bona fide* and not with the intention to delay the proceedings or to prejudice the rights of the defendant.

VERIFICATION

I, the deponent above named, do hereby verify that the contents of this affidavit from paragraphs 1 to 4 are true and correct to my personal knowledge and belief. No part of it is false and nothing material has been concealed therefrom.

Verified at [Place] on this [Date].

Deponent

[Signature]

Identified and Attested by:

[Signature of Advocate]

[Name of Advocate]

Advocate for the Plaintiff

18. Amendment of Plaint - When normal not allowed

Order 6 Rule 17 of the Code of Civil Procedure, 1908 (CPC) sets out the power of a court to permit amendments to pleadings. Although the rule is liberal, courts have identified circumstances in which an amendment is ordinarily refused, as well as exceptional factors that can nevertheless justify permission.

Situations in which an amendment is normally refused

- After the trial has begun: the proviso to Order 6 Rule 17 bars amendments once evidence has started, unless the due diligence test (see below) is met.
- A change that alters the fundamental nature of the suit or introduces an inconsistent or entirely new cause of action.
- Serious prejudice to the opposite party that cannot be offset by costs or directions.
- Introduction of a claim or relief that is already barred by limitation.
- Requests made with *mala fide* intent or for the purpose of delaying proceedings.

- Attempts to withdraw or contradict clear admissions on which the other side has relied.

Exceptional circumstances in which a normally barred amendment may still be allowed

- Despite due diligence exception: if the applicant shows that, even with reasonable diligence, the material facts or documents could not have been discovered before trial began (proviso to Order 6 Rule 17).
- To avoid multiplicity of suits and settle the entire controversy in one proceeding.
- Purely clarificatory or formal amendments that do not change the nature of the suit (e.g., correcting typographical errors, refining existing pleas).
- Amendments necessitated by events occurring after the plaint was filed (subsequent developments, changes in law, supervening facts).
- Where refusal would defeat the real questions in controversy and result in injustice, even if the new plea might otherwise be timebarred, provided it relates to the same basic transaction.

Courts balance two competing concerns: preventing injustice and delay to the opposing party versus ensuring that the real dispute is fully and finally adjudicated. Accordingly, while certain amendments are routinely refused—especially once trial has commenced—judicial discretion remains wide enough to allow them in exceptional cases where justice, avoidance of multiplicity, or subsequent events demand flexibility, provided the applicant shows diligence and absence of *mala fides* and any prejudice can be compensated through costs or directions.

**SAMPLE DRAFT FOR THE AMENDMENT OF PLAINT – WHEN
NORMALLY NOT ALLOWED**

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION),[PLACE]

Civil Suit No.[XXX] of [Year]

[Name of Plaintiff] ...Plaintiff

Versus

[Name of Defendant] ...Defendant

Application under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908

The humble application of the plaintiff most respectfully sheweth:

1. That the above suit is pending before this Hon'ble Court and is presently fixed for[state the stage, e.g., evidence, final arguments].
2. That the plaintiff had instituted this suit on [insert date], praying for[mention original relief].
3. That issues were framed on [insert date], and the matter has proceeded beyond the stage of trial commencement.